

THE GUIDELINE FOR COMPLAINT SUBMISSION AGAINST INFRINGEMENT OF INTERLLECTUAL PROPERTY AT EXHIBITION

Ten Questions on How to Protect Your Intellectual Property at Exhibitions

Question 1

Are complaint-handling institutions for intellectual property set up at all exhibitions?

No. Pursuant to the stipulations of “The Measures on the Protection of Intellectual Property at Exhibitions”, complaint-handling institutions for intellectual property shall be set up only when an exhibition lasts for three days or longer or if the administrative authority of exhibition deems it necessary.

Question 2

Are complaints required to be submitted to a complaint handling institution for intellectual property at exhibition? What if there is no such complaint handling institution?

It is optional, not compulsory, to submit complaints to handling institutions at exhibitions. Pursuant to Article 8 of “The Measures on the Protection of Intellectual Property at Exhibitions”, right-holders of intellectual property may submit complaints to a handling institution at exhibitions or directly to administrative authorities of intellectual property such as trademarks, patents or copyrights offices.

Question 3

What kind of complaints would be accepted and what would be refused by complaint handling institutions at exhibitions?

Complaint handling institutions at exhibitions shall accept complaints against infringements of trademarks, patents and copyrights found at exhibitions. If infringements of intellectual property rights are not conducted at exhibitions, it shall, in accordance with Article 30 of “The Measures on the Protection of Intellectual Property at Exhibitions”, be submitted to local administrative authorities of intellectual property with jurisdiction for handling in accordance with relevant laws and regulations of intellectual property

Complaints against the following infringements of patent rights would not be accepted:

- (I) A relevant patent infringement litigation has been filed with court;
- (II) Relevant patents are in the process of invalidation;
- (III) Ownership of the patents is in dispute and therefore in the process of court proceedings or conciliation proceedings conducted by patent administrative authorities;
- (IV) Relevant patents have been terminated and in the process of postliminium.

Complaints against the following infringements of trademark rights would not be accepted:

- (I) A relevant trademark infringement litigation has been filed with court;
- (II) Relevant trademark rights have been invalidated or revoked.

Question 4

How could complaints be submitted if the right-holder is abroad?

A right-holder who is abroad may entrust a domestic agent with the submission of the complaints and the entrusted should provide powers of attorney and relevant certificates in accordance with laws.

Question 5

What materials are required to be submitted for the complaints?

The following materials are required to be submitted

(I) legally valid certificates of intellectual property rights: for patent rights, patent licenses, patent proclamations, identifications of the patentees and certificates of legal state of the patents ; for trademark rights, certificates of trademark registration signed and affixed with personal seals by the complainants and identifications of the right-holders of trademarks ; for copyrights, certificates of copyrights and identifications of copyright holders ;

(II) Basic information of the parties suspected of the infringements;

(III) Reasons and evidence of the infringements;

(IV) Powers of attorney if the agent is commissioned to submit the complaints.

Question 6

How could losses of the exhibitors resulting from false complaints be compensated for?

Pursuant to Article 10 of “The Measures on the Protection of Intellectual Property at Exhibitions”, complainants shall be legally liable for losses of the exhibitors resulting from their submission of false complaint materials or other false practices.

Question 7

How could evidence of infringement be obtained?

It is clearly stipulated in “The Measures on the Protection of Intellectual Property at Exhibitions” that administrative authorities of intellectual property have the power to investigate and obtain evidence at exhibitions. For instance, it is stipulated in Article 18 that local administrative authorities of intellectual property may conduct field investigation and obtain evidence by sampling.

Question 8

How could complaint-handling institutions at exhibitions and local administrative authorities of intellectual property coordinate in accepting complaints?

Complaint handling institutions at exhibitions shall, within 24 hours of receiving relevant complaint materials, forward the materials to competent administrative authorities of intellectual property. The administrative authorities shall, when accepting complaints, notify the exhibition organizers as well as the parties charged.

Question 9

How could unfinished cases be processed after the end of exhibitions?

For cases are not settled before the end of exhibitions, administrative authorities of intellectual property where exhibitions are located may forward relevant facts and evidence, which have been confirmed by exhibition organizers, to the competent administrative authorities with jurisdiction.

Question 10

What punishments would be made for infringements of intellectual property at exhibitions?

First of all, infringements of intellectual property at exhibitions shall be punished in accordance with relevant stipulations of special laws and regulations of intellectual property. Moreover, administrative authorities of exhibitions may publish proclamations of criticism to those exhibitors committing infringement. Exhibitors that commit two consecutive infringements shall be banned from the next exhibitions. Exhibition organizers that act inadequately in the protection of intellectual property shall be admonished by administrative authorities of exhibitions which may,

after considering the circumstances, disapprove further applications of exhibitions by those organizers.

Notice of Complaint Submission Against Infringement of Intellectual Property at Exhibition

.. All exhibitors shall be legitimate and shall not infringe intellectual property of other parties.

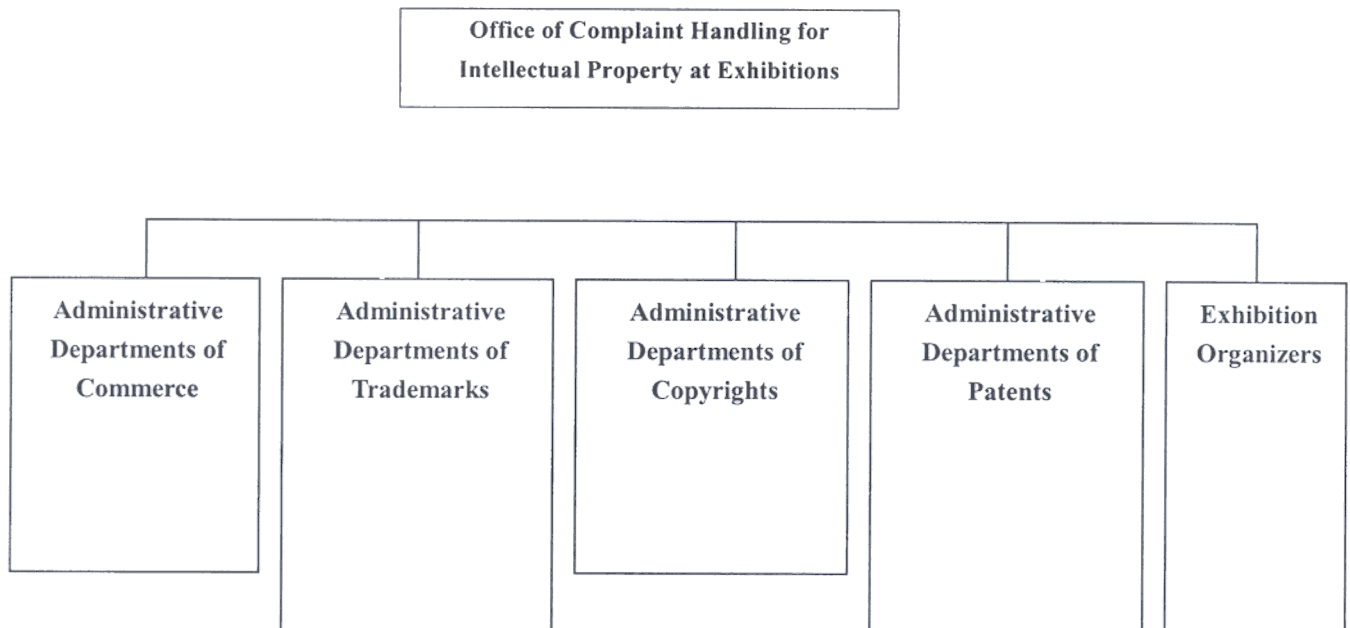
2. Complaints shall be submitted promptly after acts of infringement of intellectual property are found at exhibitions.

3. Complaint may be submitted to complaint-handling institutions at exhibitions or directly to administrative authorities of intellectual property.

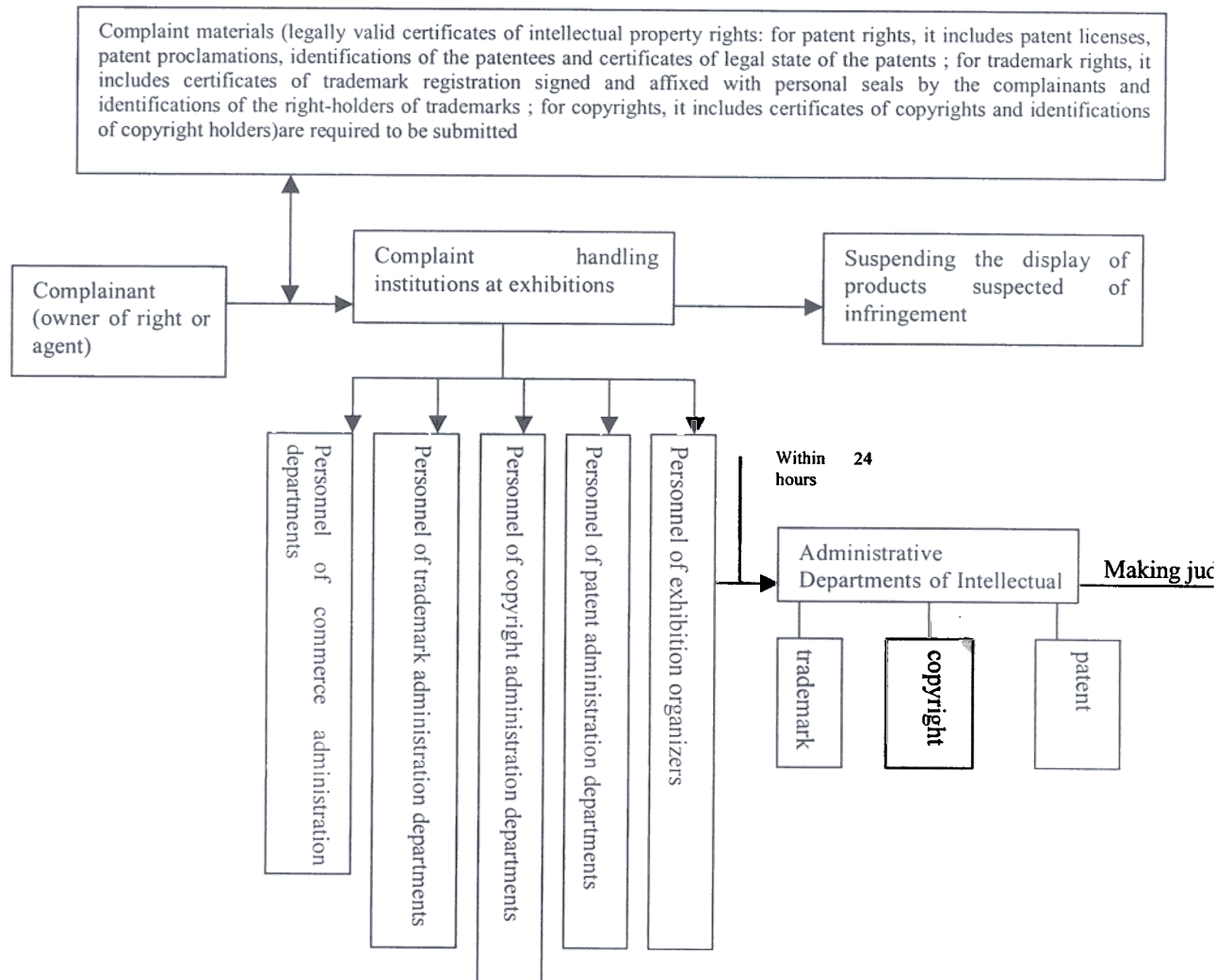
4. When complaints are submitted, complete certificates and information of rights shall be provided, including: legally valid certificates of the ownership of intellectual property; basic information of the parties suspected of infringement; reasons and evidence of infringement; powers of attorney if complaints are submitted by agents.

5. No false complaints shall be submitted.

Structural Establishment of Complaint Handling for Intellectual Property at Exhibitions



Complaint Procedure for Intellectual Property at Exhibitions



Contact Information of Complaint Handling for Intellectual Property at Exhibitions

Contact Information of Complaint Handling for Patent Rights at Exhibitions in Ten Municipalities

Locations	Administrative Departments	Telephone and Fax Numbers
Beijing	Beijing Intellectual Property Administration	Tel: 010-84080098 Fax: 84080097
Shanghai	Shanghai Intellectual Property	Tel: 021-54046641

	Administration	Fax: 54046641
Chongqing	Chongqing Intellectual Property Administration	Tel: 023-67611606, 67515952
Dalian	Dalian Science and Technology Administration	Tel: 0411-83686971
Qingdao	Qingdao Intellectual Property Administration	Tel: 0532-82893713 Fax: 82860531
Wuhan	Hubei Intellectual Property Administration	Tel: 027-87641834 Fax: 87641834
	Wuhan Intellectual Property Administration	Tel: 027-65692016 Fax: 65602015
Chengdu	Sichuan Intellectual Property Administration	Tel: 028-85578286, 85512899, 85589736 13708193233, 13111876582
Xiamen	Xiamen Intellectual Property Administration	Tel: 0592-5039752 Office Tel: 5051950, 5051970
Guangzhou	Guangzhou Intellectual Property Administration	Tel: 020-38288651
Shenzhen	Shenzhen Intellectual Property Administration	Tel: 0755—83699637 13922845288

Contact Information of Complaint Handling for Copyrights at Exhibitions in Ten Municipalities

Locations	Administrative Departments	Telephone and Fax Numbers
Beijing	Beijing Municipal Bureau of Copyright	Tel: 010-84251190
Shanghai	Shanghai Municipal Bureau of Copyright	Tel: 021-64670303
Chongqing	Chongqing Municipal Bureau of Copyright	Tel: 023-67502722
Dalian	Dalian Municipal Bureau of Copyright	Tel: 0411-83627991
Qingdao	Qingdao Municipal Bureau of Copyright	Tel: 0532-5842858
Wuhan	Wuhan Municipal Bureau of Copyright	Tel: 027-82788832
Chengdu	Sichuan Provincial Bureau of Copyright	Tel: 028-87767568
Xiamen	Xiamen Municipal Bureau of Copyright	Tel: 0592-5335210
Guangzhou	Guangzhou Municipal Bureau	Tel: 020-83376136

	of Copyright	
Shenzhen	Shenzhen Municipal Bureau of Copyright	Tel: 0755-83699659

Contact Information of Complaint Handling for Trademark Rights at Exhibitions in Ten Municipalities

Locations	Administrative Departments	Telephone and Fax Numbers
Beijing	Chaoyang Administration of Industry and Commerce	Tel: 010-51069517
	Xicheng Administration of Industry and Commerce	Tel: 010-88087622
	Haidian Administration of Industry and Commerce	Tel: 010-82692052
	Administrations of industry and commerce of other districts and counties	Tel: 010-12315
Shanghai	Shanghai Administration of Industry and Commerce	Tel: 021-12315
Chongqing	Chongqing Administration of Industry and Commerce	Tel: 023-12315
Dalian	Dalian Administration of Industry and Commerce	Tel: 0411-84338456
Qingdao	Qingdao Administration of Industry and Commerce	Tel: 0532-85730510
Wuhan	Wuhan Administration of Industry and Commerce	Tel: 027-85633122
Chengdu	Sichuan Administration of Industry and Commerce	Tel: 028-85394282
Xiamen	Xiamen Administration of Industry and Commerce	Tel: 0592-2232809
Guangzhou	Guangzhou Administration of Industry and Commerce	Tel: 020-12315
Shenzhen	Shenzhen Administration of Industry and Commerce	Tel: 0755-12315

Complaint Form for Intellectual Property at Exhibitions

Name of Complainant		Sex/Type of Enterprise	
ID No./Business License No.		Occupation/Place of Business	
Telephone			
Address			
Name of Agent/Agent Enterprise		Sex/Type of Enterprise	
ID No./Business License No.		Occupation/Place of Business	
Telephone			
Address			
Basic information of the exhibitor against which complaint is filed	Booth No. ____ at Hall No. ____ for Exhibition No. ____		
	Basic information of the exhibitor: Name of exhibitor/supplier Name of the product of infringement Type of infringement: trademark () patent () copyright ()		
Contents of complaint (Facts concerning the complaint and reasons and evidence of the complaint shall be stated.) _____ exhibited by the exhibitor at Booth No. ____ in Hall No. ____ at (Name of the Exhibition) No. ____ is suspected of infringing the intellectual property right of the complainant (principal), right No. _____, name of right: _____, type of right: _____. reasons and evidence:			

Requests of complaint:			
Other issues to be specified:			
Remark: The complainant shall provide legally valid certificate of the ownership of intellectual property right; the agent commissioned by the principal shall provide a power of attorney.			
Signature and seal of the complainant		Date of complaint	

Letter of Commitment for Intellectual Property at Exhibitions

We are officially committed that:

We will not, at whatever places at the site of _____ Exhibition Hall, exhibit articles that infringe the intellectual property right of others. We will abide by relevant stipulations of “The Measures on the Protection of Intellectual Property at Exhibitions” and _____. We will conduct complaints and produce evidence in accordance with normal procedures specified in “The Measures on the Protection of Intellectual Property at Exhibitions” and _____. We will be subject to the administration of the exhibition organizer and administrative departments of intellectual property. We will accept the punishment made by the exhibition organizer if we violate the aforesaid commitments.

The Letter of Commitment is in two copies, held by the exhibition organizer and the promiser separately. The Letter will take effect upon the date of signing.

Promiser (exhibitor):
 Booth No.
 Representative of the Promiser:
 (signature and seal)
 Date:

Brief Introduction to Blue Sky Action of the Protection of Intellectual Property at Exhibitions

As a part of the nationwide special action of the protection of intellectual property and a measure to implement “The Measures on the Protection of Intellectual Property at Exhibitions”, the Ministry of Commerce, the General Administration of Customs, the State Administration for Industry and Commerce, the National Copyright Administration and the State Intellectual Property Office decide to launch the nationwide special action to protect intellectual property at exhibitions for a year with the purpose of inhibiting infringements of intellectual property at exhibitions, regulating market order of exhibitions, raising awareness of the protection of intellectual property at exhibitions, creating environment for fair competition, improving the administration of exhibition industry and fostering renowned international exhibitions.

The special action shall focus on the publicity campaign for the protection of trademark right, copyright and patent right and target exhibitions with considerable international influence. In order to achieve substantial results, the special action shall be carried out in an all-round manner with cases arousing strong responses from owners of intellectual property rights as the point for breakthrough.

The special action involves the following measures:

1. Dissemination and promulgation

- Printing and making brochures on the protection of intellectual property at exhibitions and conducting large-scale publicity campaigns to disseminate “The Measures on the Protection of Intellectual Property at Exhibitions”.
- Disseminating “The Measures on the Protection of Intellectual Property at Exhibitions” and promulgating schemes for the special action on websites of international exhibitions and all member institutions.
- Conducting widespread publicity campaigns through the CCTV, China National Radio, newspapers of the Central government, departments and local authorities, professional periodicals, press conferences, interviews, questionnaires and knowledge contests.
- Exhibition organizers shall put up and disseminate laws and regulations (both Chinese and English versions) on the protection of intellectual property on their websites of business invitation and at notable places of the exhibition halls; contact information of local departments of intellectual property shall also be given to facilitate the submission of complaints.
- Signing of the public letter of commitment entitled “legal operation in good faith and protection of intellectual property” by 200 exhibition operators and exhibition halls of considerable size in China, which promise to forbid infringements of intellectual property at exhibitions operated or exhibition halls run by them.

2. Itinerary training

Three concentrated training programs shall be held by stages and batches in major areas for exhibitions in China. Principals of major exhibition companies and industrial associations are required to participate and exhibition personnel are encouraged to participate, too. The courses shall be given by law specialists and scholars from both home and abroad. Key topics of the courses are knowledge of the protection of intellectual property at exhibitions and ways to prevent enterprises suspected of infringement from participating in exhibitions.

3. International exchanges

“The International Symposium on the Protection of Intellectual Property at Exhibitions” shall be held at which experts from both home and abroad may share their experience and practices in the

protection of intellectual property at exhibitions.

4. Self-discipline by enterprises

Exhibitors and their liaison groups shall explore ways to establish industrial self-discipline mechanisms in order to raise awareness of exhibitors to protect intellectual property and their ability to protect their own intellectual property.

All exhibition operators shall, at the end of exhibitions, submit special reports on the actual protection of intellectual property to examination and approval departments; the actual protection of intellectual property at an exhibition shall be one criterion for its grading.

5. Supervision and examination

Leading member institutions shall form five supervision and examination groups to conduct two special actions of supervision and examination of the protection of intellectual property at exhibitions in collaboration with local administrative departments, one in the first half and one in the second half of the year. The groups shall conduct supervision and examination at ten key governmental exhibitions and ten key commercial exhibitions (in Beijing, Shanghai, Guangzhou, Shenzhen, Xiamen, Chengdu, Chongqing, Dalian, Qingdao and Wuhan), focusing on the actual dissemination and implementation of “The Measures on the Protection of Intellectual Property at Exhibitions”, the establishment of complaint handling institutions at the exhibitions and their work in handling complaints, as well as the actual judgments made to cases of infringement.

Enterprises found to conduct infringement after investigation shall be prosecuted in strict accordance with stipulations of “The Measures on the Protection of Intellectual Property at Exhibitions” and other relevant laws and regulations; those enterprises shall also be exposed in mass media and put in the blacklist of enterprises with bad faith.

6. Evaluation and promulgation of the results

Evaluation shall be conducted on the actual situation of the dissemination and implementation of laws and regulations, the raising of awareness of law observation, the experience accumulated and the judgments made on typical cases. Press conferences shall be held to promulgate the results of evaluation and special reports on it shall be submitted to the State Council.

7. Display of achievements

On the basis of evaluation of the special action, a display of achievements shall be held to demonstrate the implementation of “The Measures on the Protection of Intellectual Property at Exhibitions”, some good experience and practices, achievements and judgments made on enterprises committing infringement.

The display shall be attended by exhibition organizers, representatives of industrial associations, representatives from foreign institutions stationed in China and mass media.